

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 921

Introduced by Business and Labor Committee:
Connealy, 16, Chairperson; Dierks, 40; Hartnett, 45;
Preister, 5; Schimek, 27

Read first time January 9, 2002

Committee:

A BILL

1 FOR AN ACT relating to the Employment Security Law; to amend
2 section 48-648, Reissue Revised Statutes of Nebraska, and
3 sections 48-602 and 48-628, Revised Statutes Supplement,
4 2001; to define terms; to provide for professional
5 employer organization treatment and eliminate employee
6 leasing company references; to harmonize provisions; and
7 to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-602, Revised Statutes Supplement,
2 2001, is amended to read:

3 48-602. For purposes of the Employment Security Law,
4 unless the context otherwise requires:

5 (1) Base period shall mean the last four completed
6 calendar quarters immediately preceding the first day of an
7 individual's benefit year, except that the commissioner may
8 prescribe by rule and regulation that base period shall mean the
9 first four of the last five completed calendar quarters immediately
10 preceding the first day of an individual's benefit year;

11 (2) Benefits shall mean the money payments payable to an
12 individual with respect to his or her unemployment;

13 (3) Benefit year, with respect to any individual, shall
14 mean the one-year period beginning with the first day of the first
15 week with respect to which the individual first files a valid claim
16 for benefits, and thereafter the one-year period beginning with the
17 first day of the first week with respect to which the individual
18 next files a valid claim for benefits after the termination of his
19 or her last preceding benefit year. Any claim for benefits made in
20 accordance with section 48-629 shall be deemed to be a valid claim
21 for the purpose of this subdivision if the individual has been paid
22 the wages for insured work required under section 48-627. For the
23 purposes of this subdivision a week with respect to which an
24 individual files a valid claim shall be deemed to be in, within, or
25 during that benefit year which includes the greater part of such
26 week;

27 (4) Calendar quarter shall mean the period of three
28 consecutive calendar months ending on March 31, June 30, September

1 30, or December 31, or the equivalent thereof as the Commissioner
2 of Labor may by rule and regulation prescribe;

3 (5) Client shall mean any individual, partnership,
4 limited liability company, corporation, or other legally recognized
5 entity that contracts with a professional employer organization to
6 obtain professional employer services relating to worksite
7 employees through a professional employer agreement;

8 (6) Combined tax shall mean the employer liability
9 consisting of contributions and commencing January 1, 1996, the
10 state unemployment insurance tax;

11 ~~(6)~~ (7) Combined tax rate shall mean the rate which is
12 applied to wages to determine the combined taxes due;

13 ~~(7)~~ (8) Commissioner shall mean the Commissioner of
14 Labor;

15 ~~(8)~~ (9) Contribution rate shall mean the percentage of
16 the combined tax rate used to determine the contribution portion of
17 the combined tax;

18 ~~(9)~~ (10) Contributions shall mean that portion of the
19 combined tax based upon the contribution rate portion of the
20 combined tax rate which is deposited in the state Unemployment
21 Compensation Fund as required by sections 48-648 and 48-649;

22 ~~(10)~~ (11) Department shall mean the Department of Labor;

23 ~~(11)~~ Employee leasing company shall mean an independently
24 established business entity which engages in the business of
25 providing leased employees to a client-lessee. Client-lessee shall
26 mean any other employer, individual, organization, partnership,
27 limited liability company, corporation, or other legal entity,

28 (12) Employment office shall mean a free public

1 employment office or branch thereof, operated by this state or
2 maintained as a part of a state-controlled system of public
3 employment offices, including public employment offices operated by
4 an agency of a foreign government;

5 (13) Fund shall mean the Unemployment Compensation Fund
6 established by section 48-617 to which all contributions and
7 payments in lieu of contributions required and from which all
8 benefits provided shall be paid;

9 (14) Hospital shall mean an institution which has been
10 licensed, certified, or approved by the Department of Health and
11 Human Services Regulation and Licensure as a hospital;

12 (15) Institution of higher education shall mean an
13 institution which: (a) Admits as regular students only individuals
14 having a certificate of graduation from a high school or the
15 recognized equivalent of such a certificate; (b) is legally
16 authorized in this state to provide a program of education beyond
17 high school; (c) provides an educational program for which it
18 awards a bachelor's degree or higher or provides a program which is
19 acceptable for full credit toward such a degree, a program of
20 postgraduate or postdoctoral studies, or a program of training to
21 prepare students for gainful employment in a recognized occupation;
22 and (d) is a public or other nonprofit institution; notwithstanding
23 any of the foregoing provisions of this subdivision, all colleges
24 and universities in this state are institutions of higher education
25 for purposes of this section;

26 (16) Insured work shall mean employment for employers;

27 (17) Leave of absence shall mean any absence from work:

28 (a) Mutually and voluntarily agreed to by the employer and the

1 employee; (b) mutually and voluntarily agreed to between the
2 employer and the employee's bargaining agent; or (c) to which the
3 employee is entitled to as a matter of state or federal law;

4 (18) Paid vacation leave shall mean a period of time
5 while employed or following separation from employment in which the
6 individual renders no services to the employer but is entitled to
7 receive vacation pay equal to or exceeding his or her base weekly
8 wage;

9 (19) Payments in lieu of contributions shall mean the
10 money payments to the Unemployment Compensation Fund required by
11 sections 48-649, 48-652, 48-660.01, and 48-661;

12 (20) Professional employer agreement shall mean a written
13 professional employer services contract whereby:

14 (a) A professional employer organization agrees to
15 provide payroll services, employee benefit administration, or
16 personnel services for a majority of the employees providing
17 services to the client at a client worksite;

18 (b) The agreement is intended to be ongoing rather than
19 temporary in nature; and

20 (c) Employer responsibilities for worksite employees,
21 including those of hiring, firing, and disciplining are allocated
22 by and between the professional employer organization and the
23 client by contract;

24 (21) Professional employer organization shall mean any
25 individual, partnership, limited liability company, corporation, or
26 other legally recognized entity that enters into a professional
27 employer agreement with a client or clients for a majority of a
28 client's workforce at a client worksite. The term professional

1 employer organization shall not include an insurer as defined in
2 section 44-103 or a temporary help firm;

3 ~~(20)~~ (22) State includes, in addition to the states of
4 the United States of America, any dependency of the United States,
5 the Commonwealth of Puerto Rico, the Virgin Islands, and the
6 District of Columbia;

7 ~~(21)~~ (23) State unemployment insurance tax shall mean
8 that portion of the combined tax commencing January 1, 1996, which
9 is based upon the state unemployment insurance tax rate portion of
10 the combined tax rate and which is deposited in the State
11 Unemployment Insurance Trust Fund as required by sections 48-648
12 and 48-649;

13 ~~(22)~~ (24) State unemployment insurance tax rate shall
14 mean the percentage of the combined tax rate used to determine the
15 state unemployment insurance tax portion of the combined tax;

16 ~~(23)~~ (25) Temporary employee shall mean an employee of a
17 temporary help firm assigned to work for the clients of such
18 temporary help firm;

19 ~~(24)~~ (26) Temporary help firm shall mean a firm that
20 hires its own employees and assigns them to clients to support or
21 supplement the client's work force in work situations such as
22 employee absences, temporary skill shortages, seasonal workloads,
23 and special assignments and projects;

24 ~~(25)~~ (27) Unemployed shall mean an individual during any
25 week in which the individual performs no service and with respect
26 to which no wages are payable to the individual or any week of less
27 than full-time work if the wages payable with respect to such week
28 are less than the individual's weekly benefit amount, but shall not

1 include any individual on a leave of absence or on paid vacation
2 leave. When an agreement between the employer and a bargaining
3 unit representative does not allocate vacation pay allowance or pay
4 in lieu of vacation to a specified period of time during a period
5 of temporary layoff or plant shutdown, the payment by the employer
6 or his or her designated representative will be deemed to be wages
7 as defined in this section in the week or weeks the vacation is
8 actually taken;

9 ~~(26)~~ (28) Unemployment Trust Fund shall mean the trust
10 fund in the Treasury of the United States of America established
11 under section 904 of the federal Social Security Act, 42 U.S.C.
12 1104, as such section existed on March 2, 2001, which receives
13 credit from the state Unemployment Compensation Fund;

14 ~~(27)~~ (29) Wages, except with respect to services
15 performed in employment as provided in subdivisions (4)(c) and (d)
16 of section 48-604, shall mean all remuneration for personal
17 services, including commissions and bonuses, remuneration for
18 personal services paid under a contract of hire, and the cash value
19 of all remunerations in any medium other than cash. The reasonable
20 cash value of remuneration in any medium other than cash shall be
21 estimated and determined in accordance with rules and regulations
22 prescribed by the commissioner. After December 31, 1985, wages
23 shall include tips which are received while performing services
24 which constitute employment and which are included in a written
25 statement furnished to the employer pursuant to section 6053(a) of
26 the Internal Revenue Code as defined in section 49-801.01.

27 With respect to services performed in employment in
28 agricultural labor as is provided in subdivision (4)(c) of section

1 48-604 or in domestic service as is provided in subdivision (4)(d)
2 of section 48-604, wages shall mean cash remuneration for such
3 services, except that as used in sections 48-648 and 48-649 only,
4 the term wages shall not include that part of the remuneration
5 which, after remuneration equal to seven thousand dollars has been
6 paid to an individual by an employer or by the predecessor of such
7 employer with respect to employment within this or any other state
8 during any calendar year, is paid to such individual by such
9 employer during such calendar year, unless that part of the
10 remuneration is subject to a tax under a federal law imposing a tax
11 against which credit may be taken for contributions required to be
12 paid into a state unemployment fund.

13 The term wages shall not include:

14 (a) The amount of any payment, including any amount paid
15 by an employer for insurance or annuities or into a fund to provide
16 for such payment, made to, or on behalf of, an individual in
17 employment or any of his or her dependents under a plan or system
18 established by an employer which makes provision for such
19 individuals generally or for a class or classes of such
20 individuals, including any amount paid by an employer for insurance
21 or annuities or into a fund to provide for any such payment, on
22 account of (i) sickness or accident disability, except, in the case
23 of payments made to an employee or any of his or her dependents,
24 this subdivision (i) shall exclude from wages only payments which
25 are received under a workers' compensation law, (ii) medical and
26 hospitalization expenses in connection with sickness or accident
27 disability, or (iii) death;

28 (b) The payment by an employer, without deduction from

1 the remuneration of the employee, of the tax imposed upon an
2 employee under section 3101 of the Internal Revenue Code as defined
3 in section 49-801.01;

4 (c) Any payment on account of sickness or accident
5 disability, or medical or hospitalization expenses in connection
6 with sickness or accident disability, made by an employer to, or on
7 behalf of, an individual after the expiration of six calendar
8 months following the last calendar month in which such individual
9 worked for such employer;

10 (d) Any payment made to, or on behalf of, an individual
11 or his or her beneficiary (i) from or to a trust described in
12 section 401(a) of the Internal Revenue Code as defined in section
13 49-801.01 which is exempt from tax under section 501(a) of the
14 Internal Revenue Code as defined in section 49-801.01 at the time
15 of such payment unless such payment is made to an employee of the
16 trust as remuneration for services rendered as such employee and
17 not as a beneficiary of the trust or (ii) under or to an annuity
18 plan which, at the time of such payment, meets the requirements of
19 section 401 of the Internal Revenue Code as defined in section
20 49-801.01;

21 (e) Any payment made to, or on behalf of, an employee or
22 his or her beneficiary (i) under a simplified employee pension as
23 defined by the commissioner, (ii) under or to an annuity contract
24 as defined by the commissioner, other than a payment for the
25 purchase of such contract which is made by reason of a salary
26 reduction agreement, whether evidenced by a written instrument or
27 otherwise, (iii) under or to an exempt governmental deferred
28 compensation plan as defined by the commissioner, (iv) to

1 supplement pension benefits under a plan or trust, as defined by
2 the commissioner, to take into account some portion or all of the
3 increase in the cost of living since retirement, but only if such
4 supplemental payments are under a plan which is treated as a
5 welfare plan, or (v) under a cafeteria benefits plan;

6 (f) Remuneration paid in any medium other than cash to an
7 individual for service not in the course of the employer's trade or
8 business; and

9 (g) Benefits paid under a supplemental unemployment
10 benefit plan which satisfies the eight points set forth in Internal
11 Revenue Service Revenue Ruling 56-249 as the ruling existed on
12 March 2, 2001, and is in compliance with the standards set forth in
13 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the
14 rulings existed on March 2, 2001;

15 ~~(28)~~ (30) Week shall mean such period of seven
16 consecutive days as the commissioner may by rule and regulation
17 prescribe; ~~and~~

18 ~~(29)~~ (31) Week of unemployment with respect to any
19 individual shall mean any week during which he or she performs less
20 than full-time work and the wages payable to him or her with
21 respect to such week are less than his or her weekly benefit
22 amount; and

23 (32) Worksite employee shall mean a person receiving
24 wages or benefits from a professional employer organization
25 pursuant to the terms of a professional employer agreement for work
26 performed at a client's worksite.

27 Sec. 2. Section 48-628, Revised Statutes Supplement,
28 2001, is amended to read:

1 48-628. An individual shall be disqualified for
2 benefits:

3 (1)(a) For the week in which he or she has left work
4 voluntarily without good cause, if so found by the commissioner,
5 and for not less than seven weeks nor more than ten weeks which
6 immediately follow such week, as determined by the commissioner
7 according to the circumstances in each case. A temporary employee
8 of a temporary help firm has left work voluntarily without good
9 cause if the temporary employee does not contact the temporary help
10 firm for reassignment upon completion of an assignment and the
11 temporary employee has been advised by the temporary help firm of
12 his or her obligation to contact the temporary help firm upon
13 completion of assignments and has been advised by the temporary
14 help firm that the temporary employee may be denied benefits for
15 failure to do so. If an individual who has made all reasonable
16 efforts to preserve the employment voluntarily leaves his or her
17 work for the necessary purpose of escaping abuse, as defined in
18 section 42-903, such individual shall be deemed to have left his or
19 her employment for good cause and is not disqualified for benefits;
20 or

21 (b) For the week in which he or she has left work
22 voluntarily for the sole purpose of accepting previously secured,
23 permanent, full-time, insured work, which he or she does accept,
24 which offers a reasonable expectation of betterment of wages or
25 working conditions, or both, and for which he or she earns wages
26 payable to him or her, if so found by the commissioner, and for not
27 more than one week which immediately follows such week;

28 (2) For the week in which he or she has been discharged

1 for misconduct connected with his or her work, if so found by the
2 commissioner, and for not less than seven weeks nor more than ten
3 weeks which immediately follow such week, as determined by the
4 commissioner in each case according to the seriousness of the
5 misconduct. If the commissioner finds that such individual's
6 misconduct was gross, flagrant, and willful, or was unlawful, the
7 commissioner shall totally disqualify such individual from
8 receiving benefits with respect to wage credits earned prior to
9 discharge for such misconduct. In addition to the seven-week to
10 ten-week benefit disqualification assessed under this subdivision,
11 the commissioner shall cancel all wage credits earned as a result
12 of employment with the discharging employer if the commissioner
13 finds that the individual was discharged for misconduct in
14 connection with the work which was not gross, flagrant, and willful
15 or unlawful but which included being under the influence of any
16 intoxicating beverage or being under the influence of any
17 controlled substance listed in section 28-405 not prescribed by a
18 physician licensed to practice medicine or surgery when the
19 individual is so under the influence on the worksite or while
20 engaged in work for the employer;

21 (3) (a) For any week of unemployment in which he or she
22 has failed, without good cause, to apply for available, suitable
23 work when so directed by the employment office or the commissioner,
24 to accept suitable work offered him or her, or to return to his or
25 her customary self-employment, if any, and the commissioner so
26 finds, and for not less than seven weeks nor more than ten weeks
27 which immediately follow such week, as determined by the
28 commissioner, and his or her total benefit amount to which he or

1 she is then entitled shall be reduced by an amount equal to the
2 number of weeks for which he or she has been disqualified by the
3 commissioner.

4 (b) In determining whether or not any work is suitable
5 for an individual, the commissioner shall consider the degree of
6 risk involved to the individual's health, safety, and morals, his
7 or her physical fitness and prior training, his or her experience
8 and prior earnings, his or her length of unemployment and prospects
9 for securing local work in his or her customary occupation, and the
10 distance of the available work from his or her residence.

11 (c) Notwithstanding any other provisions of the
12 Employment Security Law, no work shall be deemed suitable and
13 benefits shall not be denied under such law to any otherwise
14 eligible individual for refusing to accept new work under any of
15 the following conditions: (i) If the position offered is vacant due
16 directly to a strike, lockout, or other labor dispute; (ii) if the
17 wages, hours, or other conditions of the work offered are
18 substantially less favorable to the individual than those
19 prevailing for similar work in the locality; or (iii) if, as a
20 condition of being employed, the individual would be required to
21 join a company union or to resign from or refrain from joining any
22 bona fide labor organization.

23 (d) Notwithstanding any other provisions in subdivision
24 (3) of this section, no otherwise eligible individual shall be
25 denied benefits with respect to any week in which he or she is in
26 training with the approval of the commissioner, by reason of the
27 application of the provisions in subdivision (3) of this section
28 relating to failure to apply for or a refusal to accept suitable

1 work;

2 (4) For any week with respect to which the commissioner
3 finds that his or her total unemployment is due to a stoppage of
4 work which exists because of a labor dispute at the factory,
5 establishment, or other premises at which he or she is or was last
6 employed, except that this subdivision shall not apply if it is
7 shown to the satisfaction of the commissioner that (a) the
8 individual is not participating in, financing, or directly
9 interested in the labor dispute which caused the stoppage of work
10 and (b) he or she does not belong to a grade or class of workers of
11 which, immediately before the commencement of the stoppage, there
12 were members employed at the premises at which the stoppage occurs,
13 any of whom are participating, financing, or directly interested in
14 the dispute. If in any case, separate branches of work, which are
15 commonly conducted as separate businesses in separate premises, are
16 conducted in separate departments of the same premises, each such
17 department shall, for the purposes of this subdivision, be deemed
18 to be a separate factory, establishment, or other premises;

19 (5) For any week with respect to which he or she is
20 receiving or has received remuneration in the form of (a) wages in
21 lieu of notice, or a dismissal or separation allowance, (b)
22 compensation for temporary disability under the workers'
23 compensation law of any state or under a similar law of the United
24 States, (c) primary insurance benefits under Title II of the Social
25 Security Act, as amended, or similar payments under any act of
26 Congress, (d) retirement or retired pay, pension, annuity, or other
27 similar periodic payment under a plan maintained or contributed to
28 by a base period or chargeable employer, or (e) a gratuity or bonus

1 from an employer, paid after termination of employment, on account
2 of prior length of service, or disability not compensated under the
3 workers' compensation law. Such payments made in lump sums shall
4 be prorated in an amount which is reasonably attributable to such
5 week. If the prorated remuneration is less than the benefits which
6 would otherwise be due, he or she shall be entitled to receive for
7 such week, if otherwise eligible, benefits reduced by the amount of
8 such remuneration. The prorated remuneration shall be considered
9 wages for the quarter to which it is attributable. Military
10 service-connected disability compensation payable under 38 U.S.C.
11 chapter 11 shall not be deemed to be disqualifying or deductible
12 from the benefit amount. No deduction shall be made for the part
13 of any retirement pension which represents return of payments made
14 by the individual. In the case of a transfer by an individual or
15 his or her employer of an amount from one retirement plan to a
16 second qualified retirement plan under the Internal Revenue Code,
17 the amount transferred shall not be deemed to be received by the
18 claimant until actually paid from the second retirement plan to the
19 claimant. No deduction shall be made for any benefit received
20 under a supplemental unemployment benefit plan described in
21 subdivision ~~(27)(g)~~ (29)(g) of section 48-602;

22 (6) For any week with respect to which or a part of which
23 he or she has received or is seeking unemployment benefits under an
24 unemployment compensation law of any other state or of the United
25 States, except that if the appropriate agency of such other state
26 or of the United States finally determines that he or she is not
27 entitled to such unemployment benefits, this disqualification shall
28 not apply;

1 (7) For any week of unemployment if such individual is a
2 student. For the purpose of this subdivision, student shall mean
3 an individual registered for full attendance at and regularly
4 attending an established school, college, or university, unless the
5 major portion of his or her wages for insured work during his or
6 her base period was for services performed while attending school,
7 except that attendance for training purposes under a plan approved
8 by the commissioner for such individual shall not be disqualifying;

9 (8) For any week of unemployment if benefits claimed are
10 based on services performed:

11 (a) In an instructional, research, or principal
12 administrative capacity for an educational institution, if such
13 week commences during the period between two successive academic
14 years or terms, or when an agreement provides instead for a similar
15 period between two regular, but not successive, terms during such
16 period, if such individual performs such services in the first of
17 such academic years or terms and if there is a contract or
18 reasonable assurance that such individual will perform services in
19 any such capacity for any educational institution in the second of
20 such academic years or terms;

21 (b) In any other capacity for an educational institution,
22 if such week commences during a period between two successive
23 academic years or terms, if such individual performs such services
24 in the first of such academic years or terms, and if there is a
25 reasonable assurance that such individual will perform such
26 services in the second of such academic years or terms, except that
27 if benefits are denied to any individual for any week under
28 subdivision (8) (b) of this section and such individual was not

1 offered an opportunity to perform such services for the educational
2 institution for the second of such academic years or terms, such
3 individual shall be entitled to a retroactive payment of the
4 benefits for each week for which the individual filed a timely
5 claim for benefits and for which benefits were denied solely by
6 reason of subdivision (8) (b) of this section;

7 (c) In any capacity described in subdivision (8) (a) or
8 (b) of this section if such week commences during an established
9 and customary vacation period or holiday recess if such individual
10 performs such services in the period immediately before such
11 vacation period or holiday recess, and there is a reasonable
12 assurance that such individual will perform such services in the
13 period immediately following such vacation period or holiday
14 recess;

15 (d) In any capacity described in subdivision (8) (a) or
16 (b) of this section in an educational institution while in the
17 employ of an educational service agency, and such individual shall
18 be disqualified as specified in subdivisions (8) (a), (b), and (c)
19 of this section. As used in this subdivision, educational service
20 agency shall mean a governmental agency or governmental entity
21 which is established and operated exclusively for the purpose of
22 providing services to one or more educational institutions; and

23 (e) In any capacity described in subdivision (8) (a) or
24 (b) of this section in an educational institution if such services
25 are provided to or on behalf of the educational institution while
26 in the employ of an organization or entity described in section
27 3306(c) (7) or 3306(c) (8) of the Federal Unemployment Tax Act, and
28 such individual shall be disqualified as specified in subdivisions

1 (8) (a), (b), and (c) of this section;

2 (9) For any week of unemployment benefits if
3 substantially all the services upon which such benefits are based
4 consist of participating in sports or athletic events or training
5 or preparing to so participate, if such week of unemployment begins
6 during the period between two successive sport seasons or similar
7 periods, if such individual performed such services in the first of
8 such seasons or similar periods, and if there is a reasonable
9 assurance that such individual will perform such services in the
10 later of such seasons or similar periods;

11 (10) For any week of unemployment benefits if the
12 services upon which such benefits are based are performed by an
13 alien unless such alien is an individual who was lawfully admitted
14 for permanent residence at the time such services were performed,
15 was lawfully present for purposes of performing such services, or
16 was permanently residing in the United States under color of law at
17 the time such services were performed, including an alien who was
18 lawfully present in the United States as a result of the
19 application of section 212(d)(5) of the Immigration and Nationality
20 Act, 8 U.S.C. 1182(d)(5), as the section existed on March 2, 2001.
21 Any data or information required of individuals applying for
22 benefits to determine whether benefits are not payable to them
23 because of their alien status shall be uniformly required from all
24 applicants for benefits. In the case of an individual whose
25 application for benefits would otherwise be approved, no
26 determination that benefits to such individual are not payable
27 because of his or her alien status shall be made except upon a
28 preponderance of the evidence;

1 (11) Notwithstanding any other provisions of the
2 Employment Security Law, no otherwise eligible individual shall be
3 denied benefits for any week because he or she is in training
4 approved under section 236(a)(1) of the federal Trade Act of 1974,
5 19 U.S.C. 2296(a)(1), as the section existed on March 2, 2001, nor
6 shall such individual be denied benefits by reason of leaving work
7 to enter such training, if the work left is not suitable
8 employment, or because of the application to any such week in
9 training of provisions of the Employment Security Law, or any
10 applicable federal unemployment compensation law, relating to
11 availability for work, active search for work, or refusal to accept
12 work. For purposes of this subdivision, suitable employment shall
13 mean, with respect to an individual, work of a substantially equal
14 or higher skill level than the individual's past adversely affected
15 employment, as defined for purposes of the federal Trade Act of
16 1974, as the act existed on March 2, 2001, and wages for such work
17 at not less than eighty percent of the individual's average weekly
18 wage as determined for purposes of such act; and

19 (12) For any week during which the individual is on a
20 leave of absence.

21 Sec. 3. Section 48-648, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-648. (1) Combined tax shall accrue and become payable
24 by each employer not otherwise entitled to make payments in lieu of
25 contributions for each calendar year in which he or she is subject
26 to the Employment Security Law, with respect to wages for
27 employment. Such combined tax shall become due and be paid by each
28 employer to the commissioner for the State Unemployment Insurance

1 Trust Fund and the Unemployment Trust Fund in such manner and at
2 such times as the commissioner may, by rule and regulation,
3 prescribe and shall not be deducted, in whole or in part, from the
4 wages of individuals in such employer's employ. In the payment of
5 any combined tax, a fractional part of a cent shall be disregarded
6 unless it amounts to one-half cent or more, in which case it shall
7 be increased to one cent.

8 (2) If two or more related corporations or limited
9 liability companies concurrently employ the same individual and
10 compensate such individual through a common paymaster which is one
11 of such corporations or limited liability companies, each such
12 corporation or limited liability company shall be considered to
13 have paid as remuneration to such individual only the amounts
14 actually disbursed by it to such individual and shall not be
15 considered to have paid as remuneration to such individual amounts
16 actually disbursed to such individual by another of such
17 corporations or limited liability companies.

18 (3) ~~An employee leasing company which places employees of~~
19 ~~a client-lessee on its payroll and leases such employees to the~~
20 ~~client-lessee on an ongoing basis for a fee shall be liable for the~~
21 ~~combined tax on wages paid by the employee leasing company to~~
22 ~~employees performing services for client-lessees at the combined~~
23 ~~tax rate for the employee leasing company. An employee leasing~~
24 ~~company shall comply with this section and section 48-649 and shall~~
25 ~~maintain separate records and submit separate quarterly combined~~
26 ~~tax and quarterly wage reports for each client-lessee. The~~
27 ~~combined tax and reports shall be made under the tax identification~~
28 ~~number of the employee leasing company. If any agreement between~~

1 an employee leasing company and a client-lessee is terminated or if
2 an employee leasing company fails to pay a combined tax or submit a
3 report, the client-lessee shall be liable for all combined tax on
4 the leased employees and shall be treated as a new employer without
5 a previous employment record unless the client-lessee is eligible
6 for a rate computation. Each employee leasing company shall
7 maintain a list of its client-lessees and employees who have been
8 assigned to work for each client-lessee. The list shall include
9 the social security number of each employee. A copy of the list
10 shall be provided to the department by June 30 and December 31.
11 The provisions of this section shall not apply to any employment
12 agency which only provides employees on a temporary basis if the
13 employment agency is liable for the payment of contributions on
14 wages paid to such employees The professional employer organization
15 shall report and pay combined tax, penalties, and interest owed
16 upon wages earned by worksite employees under the client's employer
17 account number using the client's combined tax rate. The client is
18 liable for the payment of unpaid combined tax, penalties, and
19 interest owed upon wages paid to worksite employees, and the
20 worksite employees shall be considered employees of the client for
21 purposes of the Employment Security Law.

22 Sec. 4. Original section 48-648, Reissue Revised
23 Statutes of Nebraska, and sections 48-602 and 48-628, Revised
24 Statutes Supplement, 2001, are repealed.